

Attorney Docket No.: 3123-001

UTILITY PATENT APPLICATION

IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE

In Re U.S. Utility Patent Application

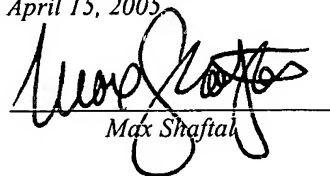
Applicant: Gee

Serial No.: 10/632,454

Filed: July 31, 2003

For: METHOD AND SYSTEM FOR FIRING
LIVE ROUNDS OR AMMUNITION
DURING MILES EXERCISES

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as FIRST-CLASS MAIL in an envelope, addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 15, 2005.


Max Shaftal

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

If any additional charges or fees must be paid in connection with the following communication, they may be paid out of our Deposit Account No. 50-1325.

This is in response to the Request for Restriction issued February 9, 2005. Applicant respectfully submits that for the foregoing reasons, the request is traversed and should be withdrawn.

According to the Examiner, the inventions of (1) a rifle barrel and (2) a process for preventing discharge of ammunition are independent and distinct because "the process for preventing the discharge of the ammunition can be practiced by a different product that prevents the discharge."

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According to MPEP Section 802.01, restriction is proper and may be required where the claims of the application are directed to two or more “independent and distinct” inventions. “Independent” is defined as meaning that there is no disclosed relationship between the two or more subjects disclosed. As an example of independent inventions, the MPEP lists a process and apparatus incapable of being used in practicing the process. Id. “Distinct” refers to applications where “two or more subjects as disclosed are related . . . but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER.” Id.

It is clear from a review of the claims, that Claims 1 and 4, which are directed to a system for preventing the discharge of a live ammunition cartridge from a bullet fired from a rifle or machine gun having a barrel having at least two apertures and a method for preventing the discharge of a live cartridge from a rifle or machine gun by forming at least two apertures in the barrel respectively, are not independent and distinct. Claims 2, 3, 10 and 12 are directed to the system of Claim 1 and Claims 5-9 and 11 are dependent from Claim 4. In traversing this request, Applicant respectfully submits that the method claim is not merely directed to a process of preventing the discharge of ammunition as the Examiner has contended, but to a process using a gun barrel having at least two apertures therein as set forth in the system or product claims. Accordingly, it is respectfully submitted that there is a disclosed relationship between the subject matter of the claims and each would not be patentable over each other (i.e., these claims are not independent and distinct). Therefore, it is respectfully requested that the request for restriction be withdrawn regarding these claims and the claims be allowed to proceed to examination.

Independent Claims 13 and 16 are directed to the same general subject matter but include the limitation that the barrel of the gun has six apertures rather than two apertures as claimed in Claims 1 and 4. As Claims 1 and 4 include the limitation of forming or having at least two

apertures in the barrel of the gun, it is respectfully submitted that these claims are not independent and distinct as they are related and not patentable over each other (because six apertures is included in the limitation of at least two apertures). However, it is respectfully submitted that because of the more specific limitation regarding the number of apertures, any potential rejection of Claims 1 and/or 4 is not an admission that Claims 13 and 16 would also be obvious.

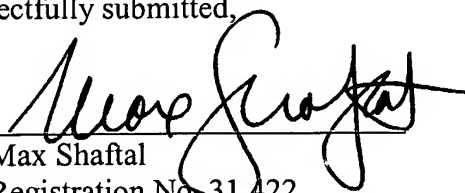
It is respectfully submitted that, for the reasons set forth above, the claims are not independent and distinct and should be examined. This point is supported by the fact that the Patent and Trademark Office already performed a thorough search and issued an Office Action on this application with respect to claims 1 through 6. Accordingly, it is respectfully submitted that the request for restriction is improper and should be withdrawn. As this request for restriction appears to be both untimely and improper, Applicant respectfully requests that the previous amendment be examined and acted upon in an expeditious manner.

To comply with the application regulation and should the Examiner not agree with the aforementioned remarks, Applicant respectfully elects Species 1 having at least two apertures, with Claims 1-3, 10, 12 and 13-15 being readable on this species.

Should there be any remaining issues or questions concerning this response or the application, the Examiner is respectfully requested to call the below-identified attorney at the number below.

April 15, 2005
PATZIK, FRANK & SAMOTNY LTD.
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Respectfully submitted,

By: 
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Registration No. 31,422



IN THE
UNITED STATES
PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	GEE, Robert	Response to Request for Restriction
ATTORNEY DOCKET NO.:	3123-001	
SER. NO.:	10/632,454	
FILING DATE:	July 31, 2003	
FOR:	METHOD AND SYSTEM TO PREVENT FIRING LIVE ROUNDS OF AMMUNITION DURING MILES EXERCISES	

CERTIFICATE OF MAILING

Date of Deposit: April 15, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service, "First Class Mail Post Office to Addressee" service under 37 C.F.R. 1.10 in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on November 4, 2004.

Dated: April 15, 2005



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April 15, 2005

IN REPLY REFER TO:

3123-001

VIA U.S. FIRST CLASS MAIL

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Re: **U.S. Utility Patent Application Serial No. 10/632,454 for
METHOD AND SYSTEM TO PREVENT FIRING LIVE ROUNDS
OF AMMUNITION DURING MILES EXERCISES**

Dear Sirs:

Enclosed for filing please find a Response to the Request for Restriction issued February 9, 2005. This communication is comprised of the following:

1. Response to Request for Restriction;
2. Postcard; and
3. Certificate of Mailing by First Class Mail.

If any charges or fees must be paid in connection with the filing of the documents in connection with this application, they may be paid out of our deposit account No. 50-1325. A duplicate copy of this transmittal letter is enclosed.

Very truly yours,

PATZIK, FRANK & SAMOTNY LTD.

Max Shaftal

Enclosures